

FILED
DISTRICT COURT OF GUAM

IN THE UNITED STATES DISTRICT COURT APR 12 2007 *nm*

FOR THE DISTRICT OF GUAM MARY L.M. MORAN
CLERK OF COURT

UNITED STATES OF AMERICA)	CRIMINAL CASE NO. 05-00031
)	
Plaintiff,)	
)	
vs.)	
)	MOTION TO VACATE SENTENCE
WILLIAM BRUCE SAN MIGUEL)	
FLORES, also known as Willy Flores,)	
)	
Defendant.)	
)	

Defendant hereby moves to vacate his sentence pursuant to Title 22 U.S.C. 2255.

MEMORANDUM OF POINTS AND AUTHORITIES

1. Defendant pled guilty to Conspiracy to Commit Money Laundering, a violation of Title 18 U.S.C. 1956(b).
2. On October 27, 2005, he was sentenced to eight months incarceration.
3. Defendant alleged in an appeal to the Ninth Circuit Court of Appeals that the sentencing judge had demonstrated prejudice against him at Sentencing, but that appeal was denied.

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4. Defendant now alleges an additional ground of prejudice on the part of the same judge, namely, that during the trial of a co-conspirator, Gil Shinohara, the judge congratulated Mr. Shinohara's defense lawyers on putting Mr. Flores on trial instead of Mr. Shinohara.

5. Said remark occurred outside the record in this proceeding in that it occurred in Mr. Shinohara's case and could not be raised on Mr. Flores's appeal.

6. This constitute impermissible prejudice against the Defendant. Liteky v. U.S., 510 U.S. 540, 114 S. Ct. 1147, 127 L. Ed 2d 474 (1994).

7. A judge's prejudice or bias can be raised on a Motion to Vacate Sentence brought pursuant to Title 28 U.S.C. 2255. Sellers v. United States, 574 F. Supp. 769 (1983).

8. Defendant prays that his previous sentence be vacated and that he be resentenced.

RESPECTFULLY SUBMITTED,


DAVID J. HIGHSMITH
DEFENSE COUNSEL